

[REDACTED]

CERTIFIED MAIL

[REDACTED]  
[REDACTED]  
[REDACTED]

FEB 21 1986

Dear Sir/Madam:

We have considered your application for recognition of exemption under Section 501(c)(4) of the Internal Revenue Code of 1954, and have determined that you do not qualify for exemption under that Section. Our reasons for this conclusion and the facts on which it is based are explained below.

The information submitted indicates you were incorporated in the State of [REDACTED] on [REDACTED] to provide an entity to serve as the council of unit owners for [REDACTED], a Condominium, within the meaning of the [REDACTED] Property Act as enacted by the State of [REDACTED] for the operation and management of said condominium which is located in [REDACTED].

Your membership consist of all of the record title holders, from time to time, of all condominium units in [REDACTED], a Condominium. The owner of each condominium slip unit and each condominium commercial unit shall be entitled to one vote at any meeting of the members.

Your income is derived from condominium dues paid annually by the members of the condominium. Interest on accumulated funds and expense reimbursements from [REDACTED] will also be sources of income. Expenditures have been made to maintain common areas and on equipment such as de-icers, Harbor bouys, etc.

Section 501(c)(4) of the Code provides for the recognition of exemption of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in

[REDACTED]

promoting in some way the common good and general welfare of the people of the community. An organization embraced within this Section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements.

It has been held that where the primary economic benefit from an organization is limited to that organization's members, the organization is not operated exclusively for the social welfare within the meaning of the statute. Consumer Farmer Milk Coop. v. Commissioner 186 F. 2d 68 (CA2; 1950), affirming 13 T.C. 150 (1949). New York State Association of Real Estate Boards Group Insurance Fund, 54 T.C. 1325, 1333 (1970).

Rev. Rul. 65-201, 1965-2 C.B. 170, holds that a cooperative organization operating and maintaining a housing development and providing housing facilities and maintenance services on a cooperative basis does not qualify for tax exemption under Section 501(c)(12) of the Code or any provision of the Code.

The rights, duties, and privileges of members of an association of unit owners in a condominium property derive from, and are established by, statutory and contractual provisions and are inextricably and compulsorily tied to the owner's acquisition and enjoyment of his property interests in the condominium.

Condominium type ownership by its very nature necessarily entails ownership in common by all unit owners of common areas or elements supportive to the individual units in a structural and/or functional sense. Thus, any maintenance or care of such common areas or elements constitutes private benefit to the individual homeowner members as opposed to promoting the common good and general welfare of the people of the community.

It is held that the direct economic benefit from your activities is for the benefit of your members as individuals and not for the direct benefit of the community as a whole. Accordingly, you are not primarily engaged in promoting the common good and general welfare of the people of the community. Therefore, we conclude that you are not qualified for recognition of exemption under Section 501(c)(4) of the Code and you are required to file Federal income tax returns.

Based on the information submitted exempt status will not be recognized under any related paragraphs of Internal Revenue Code Section 501(c).

[REDACTED]

In accordance with this determination you are required to file Federal income tax returns. Your attention is called to Section 528 of the Internal Revenue Code which provides certain procedures by which qualifying Homeowners Associations may elect to be treated as a tax exempt organization. If you determine that you qualify under Section 528, you may elect to file corporate tax return Form 1120H.

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office conference staff. Your request for a conference should include a written appeal giving the facts, law and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office, or if you request, at any mutually convenient District office. If we do not hear from you within 30 days of the date of this letter, this determination will become final.

Sincerely yours,

[REDACTED]  
District Director

Enclosure: Publication 892